

Statements by the United States at the Meeting of the WTO Dispute Settlement Body

Geneva, June 19, 2017

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB
 - A. UNITED STATES – ANTI-DUMPING MEASURES ON CERTAIN HOT-ROLLED STEEL PRODUCTS FROM JAPAN: STATUS REPORT BY THE UNITED STATES (WT/DS184/15/ADD.173)
 - The United States provided a status report in this dispute on June 8, 2017, in accordance with Article 21.6 of the DSU.
 - The United States has addressed the DSB’s recommendations and rulings with respect to the calculation of anti-dumping margins in the hot-rolled steel anti-dumping duty investigation at issue.
 - With respect to the recommendations and rulings of the DSB that have yet to be addressed, the U.S. Administration will work with the U.S. Congress with respect to appropriate statutory measures that would resolve this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

B. UNITED STATES – SECTION 110(5) OF THE US COPYRIGHT ACT:
STATUS REPORT BY THE UNITED STATES (WT/DS160/24/ADD.148)

- The United States provided a status report in this dispute on June 8, 2017, in accordance with Article 21.6 of the DSU.
- The U.S. Administration will continue to confer with the European Union, and to work closely with the U.S. Congress, in order to reach a mutually satisfactory resolution of this matter.

1. SURVEILLANCE OF IMPLEMENTATION OF RECOMMENDATIONS ADOPTED BY THE DSB

C. EUROPEAN COMMUNITIES - MEASURES AFFECTING THE APPROVAL AND MARKETING OF BIOTECH PRODUCTS: STATUS REPORT BY THE EUROPEAN UNION (WT/DS291/37/ADD.111)

- The United States thanks the European Union (“EU”) for its status report and its statement today.
- EU measures affecting biotech products continue to result in lengthy, unpredictable, and unexplained delays in approvals. These delays and the resulting uncertainty in biotech approvals in the EU undermine the commercial interests of both U.S. and EU farmers.
- The failure to approve biotech corn products is a source of particular concern to the United States. A number of corn products have received the approval of the EU’s scientific authority, yet have remained stalled for months now at the level of the EU Appeals Committee or the EU Commission.
- The United States urges the EU to take action on these biotech approvals without further delay.

2. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE DSB

B. UNITED STATES – CERTAIN METHODOLOGIES AND THEIR
APPLICATION TO ANTI-DUMPING PROCEEDINGS INVOLVING CHINA

- On May 22, 2017, the DSB adopted the panel and Appellate Body reports in the dispute *United States – Certain Methodologies and their Application to Anti-Dumping Proceedings Involving China*, DS471.
- Today, as provided in the first sentence of Article 21.3 of the DSU, the United States wishes to state that it intends to implement the recommendations of the DSB in this dispute in a manner that respects U.S. WTO obligations.
- The United States will need a reasonable period of time for implementation.
- In accordance with Article 21.3(b) of the DSU, the United States will discuss this matter with China with a view to reaching agreement on the period of time.

3. UNITED STATES – CONTINUED DUMPING AND SUBSIDY OFFSET ACT OF 2000: IMPLEMENTATION OF THE RECOMMENDATIONS ADOPTED BY THE DSB

A. STATEMENT BY THE EUROPEAN UNION

- As the United States has noted at previous DSB meetings, the Deficit Reduction Act – which includes a provision repealing the Continued Dumping and Subsidy Offset Act of 2000 – was enacted into law in February 2006. Accordingly, the United States has taken all actions necessary to implement the DSB’s recommendations and rulings in these disputes.
- We recall, furthermore, that the EU has acknowledged that the Deficit Reduction Act does not permit the distribution of duties collected on goods entered after October 1, 2007, over nine years ago.
- With respect to the EU’s request for status reports in this matter, as we have already explained at previous DSB meetings, there is no obligation under the DSU to provide further status reports once a Member announces that it has implemented the DSB recommendations and rulings, regardless of whether the complaining party disagrees about compliance.
- As we have noted previously, the EU has demonstrated repeatedly that it shares this understanding, at least when it is the responding party in a dispute. Once again, this month the EU has provided no status report for one or more disputes in which there is a disagreement between the parties on the EU’s compliance.
- If the EU considers that it has no obligation to provide status reports once it has announced that it has implemented the DSB’s recommendations and rulings in a dispute, then surely the same applies to other Members under any reasonable reading of the DSU.

5. UNITED STATES - COUNTERVAILING MEASURES ON CERTAIN PIPE AND TUBE PRODUCTS FROM TURKEY

A. REQUEST FOR THE ESTABLISHMENT OF A PANEL BY TURKEY
(WT/DS523/2)

- As the United States explained at last month's meeting of the DSB, we are disappointed that Turkey has sought the establishment of a panel in this matter. For example, we fail to understand Turkey's interest in pursuing a challenge to a determination that was vacated in the course of domestic litigation. Despite this, Turkey has not chosen to narrow its panel request.
- Furthermore, Turkey appears to list certain items in its panel request, including alleged "practices", that would not be measures and therefore would not form part of the matter referred by the DSB to the panel for examination.
- We regret that Turkey would seek to use WTO resources in this manner, particularly at a time when the WTO dispute settlement system faces a number of challenges.
- Accordingly, we do not consider that Turkey's complaint is warranted. If Turkey nonetheless determines to pursue this matter further, we will vigorously defend U.S. measures and interests before the panel.

6. COLOMBIA – MEASURES RELATING TO THE IMPORTATION OF TEXTILES, APPAREL AND FOOTWEAR

A. RECOURSE TO ARTICLE 21.5 OF THE DSU BY PANAMA: SECOND REQUEST FOR THE ESTABLISHMENT OF A PANEL (WT/DS461/22)

- As the United States has expressed previously, it is important to align the three proceedings in this dispute.
- In doing so, the question of whether the measure at issue is currently in compliance with Colombia's WTO obligations can and should be taken into account in determining the level of nullification and impairment in the Article 22.6 proceeding.
- Specifically, any level of suspension of concessions determined in that proceeding must be equivalent to the current level of nullification and impairment, in accordance with DSU Articles 22.4 and 22.7.
- Therefore, the arbitrator in the Article 22.6 arbitration should examine the issue of compliance, together with the Article 21.5 panel comprised of the same three individuals. The arbitrator should determine a level of nullification or impairment based on the current situation, to the extent the situation, and the nullification, may have changed since the end of the reasonable period of time.
- Ensuring equivalence between the level of suspension of concessions and the current level of nullification and impairment is necessary to ensure that the dispute settlement system operates efficiently. Otherwise, the system could actually provoke further litigation if countermeasures authorized and imposed were in excess of the current level of nullification that flows from the findings of the compliance panel.

8. APPOINTMENT OF APPELLATE BODY MEMBERS: PROPOSAL BY THE EUROPEAN UNION (WT/DSB/W/597/REV.1)
9. PROPOSAL REGARDING THE APPELLATE BODY SELECTION PROCESS (WT/DSB/W/596/REV.1)
 - Mr. Chairman, given the ongoing transition in our political leadership and the recent confirmation of a new U.S. Trade Representative, we are not in a position to support the proposed decision to launch a process to fill a position on the Appellate Body that will only become vacant in December.
 - Nevertheless, the United States is willing to join a consensus for the DSB to take the decision proposed by Mexico, Argentina, Brazil, Chile, Colombia, Guatemala, and Peru. That decision is focused on a process to fill a position that will become vacant in less than one month's time.